VALERO 08/16/06 COMMENTS & DNREC RESPONSE

RE: DRAFT 4 (061906) REVISED REGULATION 1125

10/23/06

1a) Is the DNREC intending to include provisions within the FEL permits that will allow certain "*pre-approved changes*" (e.g., replacements in kind, operational changes not resulting in an increase of the established short-term limit, replacement of a unit with a lower emitting unit) to occur without requiring a Regulation 2 Minor New Source Review permit application? In a PAL permit issued by the DNREC on September 7, 1995 to a manufacturing facility in Delaware, such provisions were included (see Permit No. APC-95/0569).

DNREC RESPONSE – Provisions for "pre-approved" changes under the current DaimlerChrysler PAL are handled through the Regulation 1102 Permit which is the official document under which the PAL is handled. Any source requesting inclusion of "pre-approved" changes in any Regulation 1102 permit will be considered today, even if a PAL is not involved. We propose to handle such pre-approved changes in the same manner under the FEL. It is not necessary to include language concerning pre-approved changes in the FEL portion of the revised Regulation 1125.

1b) That same permit also contained provisions specifying that for modifications to existing facilities which are not "pre-approved changes" and for new constructions having VOC and NOx PTEs less than 25 tpy, "*...a complete application shall be submitted with sufficient information for public notice. Forty-five (45) days following the public notice, unless the Department objects or issues supplemental conditions, the project shall be automatically approved...*"

DNREC RESPONSE – See response to 1a above. Also, since Regulation 1125 was revised last year to include emission control technology provisions in minor new source review, any new source with actual emissions above 5 tons/year must be evaluated for controls under the requirements of Regulation 1125.

1b) Premcor believes the FEL rule should include provisions which clarify and define when minor source permitting requirements would apply to source modifications and new constructions. Premcor believes the inclusion of such clarifying provisions is important and will provide permitted facilities, in an unambiguous manner, the operating flexibility that is generally inherent in a plantwide applicability limit permit."

DNREC RESPONSE - The purpose of the FEL is to replace the current major NSR applicability determination process for major modifications with a more simple, predictable, and flexible approach that provides for the same level of environmental protection. The FEL is not intended to replace and minor source permitting requirements. We believe that Regulation 1125 and Regulation 1102 will be adequate after the FEL revision to convey the information for which Valero has concerns.

2) Section 4.4.1.7 addresses adjustments of the FELs each time the Title V permit is renewed. What is the purpose and intent of this provision? Premcor believes this section should Cleary specify the conditions which warrant adjustments and delineates procedures for determining how such adjustments are made.

DNREC RESPONSE – The purpose is to allow adjustment of the FEL level if some substantial source change or change in Delaware's air quality has occurred that merits consideration of a FEL revision. We agree conditions which warrant adjustments and the procedures need to be clarified. See DNREC response to comment (3) below for further discussion.

3) Section 4.4.1.8 appears to give the agency unilateral authority to adjust the FEL. This authority is not typical of NSR provisions and as presented is without justification. If this is indeed a vested part of the NSR program, then Premcor believes that these criteria, methods and procedures need to be clearly delineated.

DNREC RESPONSE - This provision will revised and clarified (through discussion in the Review Committee) to be more consistent with the federal PAL language for PAL adjustment upon renewal of a PAL as shown in FR 80286, Vol. 67, No. 251 12/31/02, item (aa)(10) I through v. This provision states, in part, that the PAL may be renewed at the same level if the emission level is equal to or greater than 80% of the PAL level or that the PAL level may be set at a level determined to be more representative of the source baseline actual emissions or that is more appropriate considering air quality needs, etc.

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